

AMENDED IN SENATE MAY 7, 2013  
AMENDED IN SENATE APRIL 25, 2013  
AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 738**

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**Introduced by Senator Yee**

February 22, 2013

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An act to amend Sections 1522.41 and 1529.2 of the Health and Safety Code, and to amend Sections ~~300, 16003, 16003~~ and 16540 of, *to amend, repeal, and add Section 300 of*, and to add Chapter 4 (commencing with Section 2200) to Division 2.5 of, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

SB 738, as amended, Yee. Sexually exploited and trafficked minors.

Existing law provides that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court in certain cases, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill would ~~provide~~ *provide, until January 1, 2017*, that a minor may come within the jurisdiction of the juvenile court and become a dependent child of the court if the minor is a victim of human trafficking or sexual exploitation, or received food or shelter in exchange for, or was paid to perform, sexual acts, and the parent or guardian failed or was unable to protect the child.

This bill would enact the State Plan to Serve and Protect Sexually Exploited and Trafficked Minors, and would require the California

Health and Human Services Agency to, no later than January 30, 2014, convene an interagency workgroup, as prescribed, to develop the plan and require the workgroup to submit the plan to the Legislature, Judicial Council, and Governor, no later than January 30, 2015.

Existing law establishes the California Child Welfare Council, which serves as the advisory body responsible for improving the collaboration and processes of the multiple agencies and courts that serve children and youth in the child welfare and foster care systems.

This bill would require the California Child Welfare Council to provide recommendations and updates to the State Plan to Serve and Protect Sexually Exploited and Trafficked Minors.

Existing law, the California Community Care Facilities Act, requires the State Department of Social Services to license and regulate community care facilities, including foster family agencies and other facilities that provide foster care services for children. Existing law requires the department to develop, and an administrator of a group home facility to complete, a certification program that includes training in various areas. Existing law requires a foster family agency to provide, and a licensed foster parent to complete, prescribed preplacement training and additional annual training. Existing law requires a community college district with a foster care education program to make orientation and training available to a relative or nonrelative extended family member caregiver *of a foster child*, as specified.

The bill would require the training for an administrator of a group home facility, licensed foster parent, and relative or nonrelative extended family member caregiver to include instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to a sexually exploited and trafficked minor in out-of-home care. By expanding the duties of community college districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1522.41 of the Health and Safety Code  
2 is amended to read:

3     1522.41. (a) The director, in consultation and collaboration  
4 with county placement officials, group home provider  
5 organizations, the Director of Health Care Services, and the  
6 Director of Developmental Services, shall develop and establish  
7 a certification program to ensure that administrators of group home  
8 facilities have appropriate training to provide the care and services  
9 for which a license or certificate is issued.

10    (b) (1) In addition to any other requirements or qualifications  
11 required by the department, an administrator of a group home  
12 facility shall successfully complete a department-approved  
13 certification program, pursuant to subdivision (c), prior to  
14 employment. An administrator employed in a group home on the  
15 effective date of this section shall meet the requirements of  
16 paragraph (2) of subdivision (c).

17    (2) In those cases where the individual is both the licensee and  
18 the administrator of a facility, the individual shall comply with all  
19 of the licensee and administrator requirements of this section.

20    (3) Failure to comply with this section shall constitute cause for  
21 revocation of the license of the facility.

22    (4) The licensee shall notify the department within 10 days of  
23 any change in administrators.

24    (c) (1) The administrator certification programs shall require  
25 a minimum of 40 hours of classroom instruction that provides  
26 training on a uniform core of knowledge in each of the following  
27 areas:

28    (A) Laws, regulations, and policies and procedural standards  
29 that impact the operations of the type of facility for which the  
30 applicant will be an administrator.

31    (B) Business operations.

32    (C) Management and supervision of staff.

33    (D) Psychosocial and educational needs of the facility residents.

34    (E) Community and support services.

35    (F) Physical needs for facility residents.

36    (G) Administration, storage, misuse, and interaction of  
37 medication used by facility residents.

1 (H) Resident admission, retention, and assessment procedures,  
2 including the right of a foster child to have fair and equal access  
3 to all available services, placement, care, treatment, and benefits,  
4 and to not be subjected to discrimination or harassment on the  
5 basis of actual or perceived race, ethnic group identification,  
6 ancestry, national origin, color, religion, sex, sexual orientation,  
7 gender identity, mental or physical disability, or HIV status.

8 (I) Instruction on cultural competency and sensitivity relating  
9 to, and best practices for, providing adequate care to lesbian, gay,  
10 bisexual, and transgender youth in out-of-home care.

11 (J) Instruction on cultural competency and sensitivity relating  
12 to, and best practices for, providing adequate care to a sexually  
13 exploited and trafficked minor in out-of-home care.

14 (K) Nonviolent emergency intervention and reporting  
15 requirements.

16 (L) Basic instruction on the existing laws and procedures  
17 regarding the safety of foster youth at school and the ensuring of  
18 a harassment- and violence-free school environment contained in  
19 the School Safety and Violence Prevention Act (Article 3.6  
20 (commencing with Section 32228) of Chapter 2 of Part 19 of  
21 Division 1 of Title 1 of the Education Code).

22 (2) The department shall adopt separate program requirements  
23 for initial certification for persons who are employed as group  
24 home administrators on the effective date of this section. A person  
25 employed as an administrator of a group home facility on the  
26 effective date of this section shall obtain a certificate by completing  
27 the training and testing requirements imposed by the department  
28 within 12 months of the effective date of the regulations  
29 implementing this section. After the effective date of this section,  
30 these administrators shall meet the requirements imposed by the  
31 department on all other group home administrators for certificate  
32 renewal.

33 (3) Individuals applying for certification under this section shall  
34 successfully complete an approved certification program, pass a  
35 written test administered by the department within 60 days of  
36 completing the program, and submit to the department the  
37 documentation required by subdivision (d) within 30 days after  
38 being notified of having passed the test. The department may  
39 extend these time deadlines for good cause. The department shall

1 notify the applicant of his or her test results within 30 days of  
2 administering the test.

3 (d) The department shall not begin the process of issuing a  
4 certificate until receipt of all of the following:

5 (1) A certificate of completion of the administrator training  
6 required pursuant to this chapter.

7 (2) The fee required for issuance of the certificate. A fee of one  
8 hundred dollars (\$100) shall be charged by the department to cover  
9 the costs of processing the application for certification.

10 (3) Documentation from the applicant that he or she has passed  
11 the written test.

12 (4) Submission of fingerprints pursuant to Section 1522. The  
13 department may waive the submission for those persons who have  
14 a current clearance on file.

15 (5) That person is at least 21 years of age.

16 (e) It shall be unlawful for any person not certified under this  
17 section to hold himself or herself out as a certified administrator  
18 of a group home facility. Any person willfully making any false  
19 representation as being a certified administrator or facility manager  
20 is guilty of a misdemeanor.

21 (f) (1) Certificates issued under this section shall be renewed  
22 every two years and renewal shall be conditional upon the  
23 certificate holder submitting documentation of completion of 40  
24 hours of continuing education related to the core of knowledge  
25 specified in subdivision (c). No more than one-half of the required  
26 40 hours of continuing education necessary to renew the certificate  
27 may be satisfied through online courses. All other continuing  
28 education hours shall be completed in a classroom setting. For  
29 purposes of this section, an individual who is a group home facility  
30 administrator and who is required to complete the continuing  
31 education hours required by the regulations of the State Department  
32 of Developmental Services, and approved by the regional center,  
33 may have up to 24 of the required continuing education course  
34 hours credited toward the 40-hour continuing education  
35 requirement of this section. Community college course hours  
36 approved by the regional centers shall be accepted by the  
37 department for certification.

38 (2) Every administrator of a group home facility shall complete  
39 the continuing education requirements of this subdivision.

(3) Certificates issued under this section shall expire every two years on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after July 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars (\$100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate shall be proof of compliance with this paragraph.

(5) A suspended or revoked certificate shall be subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f), and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for a period of 12 months to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated

1 except upon completion of a certification training program, passing  
2 any test that may be required of an applicant for a new certificate  
3 at that time, and paying the appropriate fees provided for in this  
4 section.

5 (7) A fee of twenty-five dollars (\$25) shall be charged for the  
6 reissuance of a lost certificate.

7 (8) A certificate holder shall inform the department of his or  
8 her employment status and change of mailing address within 30  
9 days of any change.

10 (g) Unless otherwise ordered by the department, the certificate  
11 shall be considered forfeited under either of the following  
12 conditions:

13 (1) The department has revoked any license held by the  
14 administrator after the department issued the certificate.

15 (2) The department has issued an exclusion order against the  
16 administrator pursuant to Section 1558, 1568.092, 1569.58, or  
17 1596.8897, after the department issued the certificate, and the  
18 administrator did not appeal the exclusion order or, after the appeal,  
19 the department issued a decision and order that upheld the  
20 exclusion order.

21 (h) (1) The department, in consultation and collaboration with  
22 county placement officials, provider organizations, the State  
23 Department of Health Care Services, and the State Department of  
24 Developmental Services, shall establish, by regulation, the program  
25 content, the testing instrument, the process for approving  
26 certification training programs, and criteria to be used in  
27 authorizing individuals, organizations, or educational institutions  
28 to conduct certification training programs and continuing education  
29 courses. The department may also grant continuing education hours  
30 for continuing courses offered by accredited educational institutions  
31 that are consistent with the requirements in this section. The  
32 department may deny vendor approval to any agency or person in  
33 any of the following circumstances:

34 (A) The applicant has not provided the department with evidence  
35 satisfactory to the department of the ability of the applicant to  
36 satisfy the requirements of vendorization set out in the regulations  
37 adopted by the department pursuant to subdivision (j).

38 (B) The applicant person or agency has a conflict of interest in  
39 that the person or agency places its clients in group home facilities.

1 (C) The applicant public or private agency has a conflict of  
2 interest in that the agency is mandated to place clients in group  
3 homes and to pay directly for the services. The department may  
4 deny vendorization to this type of agency only as long as there are  
5 other vendor programs available to conduct the certification  
6 training programs and conduct education courses.

7 (2) The department may authorize vendors to conduct the  
8 administrator's certification training program pursuant to this  
9 section. The department shall conduct the written test pursuant to  
10 regulations adopted by the department.

11 (3) The department shall prepare and maintain an updated list  
12 of approved training vendors.

13 (4) The department may inspect certification training programs  
14 and continuing education courses, including online courses, at no  
15 charge to the department, to determine if content and teaching  
16 methods comply with regulations. If the department determines  
17 that any vendor is not complying with the requirements of this  
18 section, the department shall take appropriate action to bring the  
19 program into compliance, which may include removing the vendor  
20 from the approved list.

21 (5) The department shall establish reasonable procedures and  
22 timeframes not to exceed 30 days for the approval of vendor  
23 training programs.

24 (6) The department may charge a reasonable fee, not to exceed  
25 one hundred fifty dollars (\$150) every two years, to certification  
26 program vendors for review and approval of the initial 40-hour  
27 training program pursuant to subdivision (c). The department may  
28 also charge the vendor a fee, not to exceed one hundred dollars  
29 (\$100) every two years, for the review and approval of the  
30 continuing education courses needed for recertification pursuant  
31 to this subdivision.

32 (7) (A) A vendor of online programs for continuing education  
33 shall ensure that each online course contains all of the following:

34 (i) An interactive portion in which the participant receives  
35 feedback, through online communication, based on input from the  
36 participant.

37 (ii) Required use of a personal identification number or personal  
38 identification information to confirm the identity of the participant.

39 (iii) A final screen displaying a printable statement, to be signed  
40 by the participant, certifying that the identified participant



1 completed the course. The vendor shall obtain a copy of the final  
2 screen statement with the original signature of the participant prior  
3 to the issuance of a certificate of completion. The signed statement  
4 of completion shall be maintained by the vendor for a period of  
5 three years and be available to the department upon demand. Any  
6 person who certifies as true any material matter pursuant to this  
7 clause that he or she knows to be false is guilty of a misdemeanor.

8 (B) Nothing in this subdivision shall prohibit the department  
9 from approving online programs for continuing education that do  
10 not meet the requirements of subparagraph (A) if the vendor  
11 demonstrates to the department's satisfaction that, through  
12 advanced technology, the course and the course delivery meet the  
13 requirements of this section.

14 (i) The department shall establish a registry for holders of  
15 certificates that shall include, at a minimum, information on  
16 employment status and criminal record clearance.

17 (j) Subdivisions (b) to (i), inclusive, shall be implemented upon  
18 regulations being adopted by the department, by January 1, 2000.

19 (k) Notwithstanding any provision of law to the contrary,  
20 vendors approved by the department who exclusively provide  
21 either initial or continuing education courses for certification of  
22 administrators of a group home facility as defined by regulations  
23 of the department, an adult residential facility as defined by  
24 regulations of the department, or a residential care facility for the  
25 elderly as defined in subdivision (k) of Section 1569.2, shall be  
26 regulated solely by the department pursuant to this chapter. No  
27 other state or local governmental entity shall be responsible for  
28 regulating the activity of those vendors.

29 SEC. 2. Section 1529.2 of the Health and Safety Code is  
30 amended to read:

31 1529.2. (a) In addition to the foster parent training provided  
32 by community colleges, foster family agencies shall provide a  
33 program of training for their certified foster families.

34 (b) (1) Every licensed foster parent shall complete a minimum  
35 of 12 hours of foster parent training, as prescribed in paragraph  
36 (3), before the placement of any foster children with the foster  
37 parent. In addition, a foster parent shall complete a minimum of  
38 eight hours of foster parent training annually, as prescribed in  
39 paragraph (4). No child shall be placed in a foster family home

1 unless these requirements are met by the persons in the home who  
2 are serving as the foster parents.

3 (2) (A) Upon the request of the foster parent for a hardship  
4 waiver from the postplacement training requirement or a request  
5 for an extension of the deadline, the county may, at its option, on  
6 a case-by-case basis, waive the postplacement training requirement  
7 or extend any established deadline for a period not to exceed one  
8 year, if the postplacement training requirement presents a severe  
9 and unavoidable obstacle to continuing as a foster parent. Obstacles  
10 for which a county may grant a hardship waiver or extension are:

11 (i) Lack of access to training due to the cost or travel required.

12 (ii) Family emergency.

13 (B) Before a waiver or extension may be granted, the foster  
14 parent should explore the opportunity of receiving training by  
15 video or written materials.

16 (3) The initial preplacement training shall include, but not be  
17 limited to, training courses that cover all of the following:

18 (A) An overview of the child protective system.

19 (B) The effects of child abuse and neglect on child development.

20 (C) Positive discipline and the importance of self-esteem.

21 (D) Health issues in foster care.

22 (E) Accessing education and health services available to foster  
23 children.

24 (F) The right of a foster child to have fair and equal access to  
25 all available services, placement, care, treatment, and benefits, and  
26 to not be subjected to discrimination or harassment on the basis  
27 of actual or perceived race, ethnic group identification, ancestry,  
28 national origin, color, religion, sex, sexual orientation, gender  
29 identity, mental or physical disability, or HIV status.

30 (G) Instruction on cultural competency and sensitivity relating  
31 to, and best practices for, providing adequate care to lesbian, gay,  
32 bisexual, and transgender youth in out-of-home care.

33 (H) Instruction on cultural competency and sensitivity relating  
34 to, and best practices for, providing adequate care to a sexually  
35 exploited and trafficked minor in out-of-home care.

36 (I) Basic instruction on the existing laws and procedures  
37 regarding the safety of foster youth at school and the ensuring of  
38 a harassment and violence free school environment contained in  
39 the California Student Safety and Violence Prevention Act of 2000

1 (Article 3.6 (commencing with Section 32228) of Chapter 2 of  
2 Part 19 of Division 1 of Title 1 of the Education Code).

3 (4) The postplacement annual training shall include, but not be  
4 limited to, training courses that cover all of the following:

5 (A) Age-appropriate child development.

6 (B) Health issues in foster care.

7 (C) Positive discipline and the importance of self-esteem.

8 (D) Emancipation and independent living skills if a foster parent  
9 is caring for youth.

10 (E) The right of a foster child to have fair and equal access to  
11 all available services, placement, care, treatment, and benefits, and  
12 to not be subjected to discrimination or harassment on the basis  
13 of actual or perceived race, ethnic group identification, ancestry,  
14 national origin, color, religion, sex, sexual orientation, gender  
15 identity, mental or physical disability, or HIV status.

16 (F) Instruction on cultural competency and sensitivity relating  
17 to, and best practices for, providing adequate care to lesbian, gay,  
18 bisexual, and transgender youth in out-of-home care.

19 (G) Instruction on cultural competency and sensitivity relating  
20 to, and best practices for, providing adequate care to a sexually  
21 exploited and trafficked minor in out-of-home care.

22 (5) Foster parent training may be attained through a variety of  
23 sources, including community colleges, counties, hospitals, foster  
24 parent associations, the California State Foster Parent Association's  
25 Conference, adult schools, and certified foster parent instructors.

26 (6) A candidate for placement of foster children shall submit a  
27 certificate of training to document completion of the training  
28 requirements. The certificate shall be submitted with the initial  
29 consideration for placements and provided at the time of the annual  
30 visit by the licensing agency thereafter.

31 (c) Nothing in this section shall preclude a county from requiring  
32 county-provided preplacement or postplacement foster parent  
33 training in excess of the requirements in this section.

34 SEC. 3. Section 300 of the Welfare and Institutions Code is  
35 amended to read:

36 300. Any child who comes within any of the following  
37 descriptions is within the jurisdiction of the juvenile court which  
38 may adjudge that person to be a dependent child of the court:

39 (a) The child has suffered, or there is a substantial risk that the  
40 child will suffer, serious physical harm inflicted nonaccidentally

1 upon the child by the child's parent or guardian. For the purposes  
2 of this subdivision, a court may find there is a substantial risk of  
3 serious future injury based on the manner in which a less serious  
4 injury was inflicted, a history of repeated inflictions of injuries on  
5 the child or the child's siblings, or a combination of these and other  
6 actions by the parent or guardian which indicate the child is at risk  
7 of serious physical harm. For purposes of this subdivision, "serious  
8 physical harm" does not include reasonable and age-appropriate  
9 spanking to the buttocks where there is no evidence of serious  
10 physical injury.

11 (b) The child has suffered, or there is a substantial risk that the  
12 child will suffer, serious physical harm or illness, as a result of the  
13 failure or inability of his or her parent or guardian to adequately  
14 supervise or protect the child, or the willful or negligent failure of  
15 the child's parent or guardian to adequately supervise or protect  
16 the child from the conduct of the custodian with whom the child  
17 has been left, or by the willful or negligent failure of the parent or  
18 guardian to provide the child with adequate food, clothing, shelter,  
19 or medical treatment, or by the inability of the parent or guardian  
20 to provide regular care for the child due to the parent's or  
21 guardian's mental illness, developmental disability, or substance  
22 abuse. No child shall be found to be a person described by this  
23 subdivision solely due to the lack of an emergency shelter for the  
24 family. Whenever it is alleged that a child comes within the  
25 jurisdiction of the court on the basis of the parent's or guardian's  
26 willful failure to provide adequate medical treatment or specific  
27 decision to provide spiritual treatment through prayer, the court  
28 shall give deference to the parent's or guardian's medical treatment,  
29 nontreatment, or spiritual treatment through prayer alone in  
30 accordance with the tenets and practices of a recognized church  
31 or religious denomination, by an accredited practitioner thereof,  
32 and shall not assume jurisdiction unless necessary to protect the  
33 child from suffering serious physical harm or illness. In making  
34 its determination, the court shall consider (1) the nature of the  
35 treatment proposed by the parent or guardian, (2) the risks to the  
36 child posed by the course of treatment or nontreatment proposed  
37 by the parent or guardian, (3) the risk, if any, of the course of  
38 treatment being proposed by the petitioning agency, and (4) the  
39 likely success of the courses of treatment or nontreatment proposed  
40 by the parent or guardian and agency. The child shall continue to

1 be a dependent child pursuant to this subdivision only so long as  
2 is necessary to protect the child from risk of suffering serious  
3 physical harm or illness.

4 (c) The child is suffering serious emotional damage, or is at  
5 substantial risk of suffering serious emotional damage, evidenced  
6 by severe anxiety, depression, withdrawal, or untoward aggressive  
7 behavior toward self or others, as a result of the conduct of the  
8 parent or guardian or who has no parent or guardian capable of  
9 providing appropriate care. No child shall be found to be a person  
10 described by this subdivision if the willful failure of the parent or  
11 guardian to provide adequate mental health treatment is based on  
12 a sincerely held religious belief and if a less intrusive judicial  
13 intervention is available.

14 (d) The child has been sexually abused, or there is a substantial  
15 risk that the child will be sexually abused, as defined in Section  
16 11165.1 of the Penal Code, by his or her parent or guardian or a  
17 member of his or her household, or the parent or guardian has  
18 failed to adequately protect the child from sexual abuse when the  
19 parent or guardian knew or reasonably should have known that  
20 the child was in danger of sexual abuse.

21 (e) The child is under ~~the age of~~ five years *of age* and has  
22 suffered severe physical abuse by a parent, or by any person known  
23 by the parent, if the parent knew or reasonably should have known  
24 that the person was physically abusing the child. For the purposes  
25 of this subdivision, “severe physical abuse” means any of the  
26 following: any single act of abuse which causes physical trauma  
27 of sufficient severity that, if left untreated, would cause permanent  
28 physical disfigurement, permanent physical disability, or death;  
29 any single act of sexual abuse which causes significant bleeding,  
30 deep bruising, or significant external or internal swelling; or more  
31 than one act of physical abuse, each of which causes bleeding,  
32 deep bruising, significant external or internal swelling, bone  
33 fracture, or unconsciousness; or the willful, prolonged failure to  
34 provide adequate food. A child may not be removed from the  
35 physical custody of his or her parent or guardian on the basis of a  
36 finding of severe physical abuse unless the social worker has made  
37 an allegation of severe physical abuse pursuant to Section 332.

38 (f) The child’s parent or guardian caused the death of another  
39 child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision (g) of that section; the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

(k) The child is a victim of human trafficking, as described in Section 236.1 of the Penal Code, is a victim of sexual exploitation, as described in Section 11165.1 of the Penal Code, or receives food or shelter in exchange for, or is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and the parent or guardian failed or was unable to protect the child.

It is the intent of the Legislature that nothing in this section disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not

come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

As used in this section, "guardian" means the legal guardian of the child.

*This section shall become inoperative on January 1, 2017, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.*

SEC. 4. Section 300 is added to the Welfare and Institutions Code, to read:

300. Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and

1 age-appropriate spanking to the buttocks where there is no  
2 evidence of serious physical injury.

3 (b) The child has suffered, or there is a substantial risk that the  
4 child will suffer, serious physical harm or illness, as a result of  
5 the failure or inability of his or her parent or guardian to  
6 adequately supervise or protect the child, or the willful or negligent  
7 failure of the child's parent or guardian to adequately supervise  
8 or protect the child from the conduct of the custodian with whom  
9 the child has been left, or by the willful or negligent failure of the  
10 parent or guardian to provide the child with adequate food,  
11 clothing, shelter, or medical treatment, or by the inability of the  
12 parent or guardian to provide regular care for the child due to the  
13 parent's or guardian's mental illness, developmental disability,  
14 or substance abuse. No child shall be found to be a person  
15 described by this subdivision solely due to the lack of an emergency  
16 shelter for the family. Whenever it is alleged that a child comes  
17 within the jurisdiction of the court on the basis of the parent's or  
18 guardian's willful failure to provide adequate medical treatment  
19 or specific decision to provide spiritual treatment through prayer,  
20 the court shall give deference to the parent's or guardian's medical  
21 treatment, nontreatment, or spiritual treatment through prayer  
22 alone in accordance with the tenets and practices of a recognized  
23 church or religious denomination, by an accredited practitioner  
24 thereof, and shall not assume jurisdiction unless necessary to  
25 protect the child from suffering serious physical harm or illness.  
26 In making its determination, the court shall consider (1) the nature  
27 of the treatment proposed by the parent or guardian, (2) the risks  
28 to the child posed by the course of treatment or nontreatment  
29 proposed by the parent or guardian, (3) the risk, if any, of the  
30 course of treatment being proposed by the petitioning agency, and  
31 (4) the likely success of the courses of treatment or nontreatment  
32 proposed by the parent or guardian and agency. The child shall  
33 continue to be a dependent child pursuant to this subdivision only  
34 so long as is necessary to protect the child from risk of suffering  
35 serious physical harm or illness.

36 (c) The child is suffering serious emotional damage, or is at  
37 substantial risk of suffering serious emotional damage, evidenced  
38 by severe anxiety, depression, withdrawal, or untoward aggressive  
39 behavior toward self or others, as a result of the conduct of the  
40 parent or guardian or who has no parent or guardian capable of



1 *providing appropriate care. No child shall be found to be a person*  
 2 *described by this subdivision if the willful failure of the parent or*  
 3 *guardian to provide adequate mental health treatment is based on*  
 4 *a sincerely held religious belief and if a less intrusive judicial*  
 5 *intervention is available.*

6 *(d) The child has been sexually abused, or there is a substantial*  
 7 *risk that the child will be sexually abused, as defined in Section*  
 8 *11165.1 of the Penal Code, by his or her parent or guardian or a*  
 9 *member of his or her household, or the parent or guardian has*  
 10 *failed to adequately protect the child from sexual abuse when the*  
 11 *parent or guardian knew or reasonably should have known that*  
 12 *the child was in danger of sexual abuse.*

13 *(e) The child is under five years of age and has suffered severe*  
 14 *physical abuse by a parent, or by any person known by the parent,*  
 15 *if the parent knew or reasonably should have known that the person*  
 16 *was physically abusing the child. For the purposes of this*  
 17 *subdivision, “severe physical abuse” means any of the following:*  
 18 *any single act of abuse which causes physical trauma of sufficient*  
 19 *severity that, if left untreated, would cause permanent physical*  
 20 *disfigurement, permanent physical disability, or death; any single*  
 21 *act of sexual abuse which causes significant bleeding, deep*  
 22 *bruising, or significant external or internal swelling; or more than*  
 23 *one act of physical abuse, each of which causes bleeding, deep*  
 24 *bruising, significant external or internal swelling, bone fracture,*  
 25 *or unconsciousness; or the willful, prolonged failure to provide*  
 26 *adequate food. A child may not be removed from the physical*  
 27 *custody of his or her parent or guardian on the basis of a finding*  
 28 *of severe physical abuse unless the social worker has made an*  
 29 *allegation of severe physical abuse pursuant to Section 332.*

30 *(f) The child’s parent or guardian caused the death of another*  
 31 *child through abuse or neglect.*

32 *(g) The child has been left without any provision for support;*  
 33 *physical custody of the child has been voluntarily surrendered*  
 34 *pursuant to Section 1255.7 of the Health and Safety Code and the*  
 35 *child has not been reclaimed within the 14-day period specified*  
 36 *in subdivision (g) of that section; the child’s parent has been*  
 37 *incarcerated or institutionalized and cannot arrange for the care*  
 38 *of the child; or a relative or other adult custodian with whom the*  
 39 *child resides or has been left is unwilling or unable to provide*  
 40 *care or support for the child, the whereabouts of the parent are*

1 unknown, and reasonable efforts to locate the parent have been  
2 unsuccessful.

3 (h) The child has been freed for adoption by one or both parents  
4 for 12 months by either relinquishment or termination of parental  
5 rights or an adoption petition has not been granted.

6 (i) The child has been subjected to an act or acts of cruelty by  
7 the parent or guardian or a member of his or her household, or  
8 the parent or guardian has failed to adequately protect the child  
9 from an act or acts of cruelty when the parent or guardian knew  
10 or reasonably should have known that the child was in danger of  
11 being subjected to an act or acts of cruelty.

12 (j) The child's sibling has been abused or neglected, as defined  
13 in subdivision (a), (b), (d), (e), or (i), and there is a substantial  
14 risk that the child will be abused or neglected, as defined in those  
15 subdivisions. The court shall consider the circumstances  
16 surrounding the abuse or neglect of the sibling, the age and gender  
17 of each child, the nature of the abuse or neglect of the sibling, the  
18 mental condition of the parent or guardian, and any other factors  
19 the court considers probative in determining whether there is a  
20 substantial risk to the child.

21 It is the intent of the Legislature that nothing in this section  
22 disrupt the family unnecessarily or intrude inappropriately into  
23 family life, prohibit the use of reasonable methods of parental  
24 discipline, or prescribe a particular method of parenting. Further,  
25 nothing in this section is intended to limit the offering of voluntary  
26 services to those families in need of assistance but who do not  
27 come within the descriptions of this section. To the extent that  
28 savings accrue to the state from child welfare services funding  
29 obtained as a result of the enactment of the act that enacted this  
30 section, those savings shall be used to promote services which  
31 support family maintenance and family reunification plans, such  
32 as client transportation, out-of-home respite care, parenting  
33 training, and the provision of temporary or emergency in-home  
34 caretakers and persons teaching and demonstrating homemaking  
35 skills. The Legislature further declares that a physical disability,  
36 such as blindness or deafness, is no bar to the raising of happy  
37 and well-adjusted children and that a court's determination  
38 pursuant to this section shall center upon whether a parent's  
39 disability prevents him or her from exercising care and control.  
40 The Legislature further declares that a child whose parent has

1 *been adjudged a dependent child of the court pursuant to this*  
2 *section shall not be considered to be at risk of abuse or neglect*  
3 *solely because of the age, dependent status, or foster care status*  
4 *of the parent.*

5 *As used in this section, “guardian” means the legal guardian*  
6 *of the child.*

7 *This section shall become operative on January 1, 2017.*

8 ~~SEC. 4.~~

9 *SEC. 5.* Chapter 4 (commencing with Section 2200) is added  
10 to Division 2.5 of the Welfare and Institutions Code, to read:

11  
12 CHAPTER 4. STATE PLAN TO SERVE AND PROTECT SEXUALLY  
13 EXPLOITED AND TRAFFICKED MINORS  
14

15 2200. This chapter shall be known, and may be cited, as the  
16 State Plan to Serve and Protect Sexually Exploited and Trafficked  
17 Minors.

18 2201. (a) The purpose of this chapter is to establish the  
19 framework for a coordinated effort and plan to serve and protect  
20 sexually exploited and trafficked minors.

21 (b) The California Health and Human Services Agency shall,  
22 no later than January 30, 2014, convene an interagency workgroup,  
23 in accordance with Section 2202, in consultation with the California  
24 Child Welfare Council created by Section 16540, for this purpose.

25 (c) For purposes of this chapter, “child trafficking victim” means  
26 an individual under 18 years of age who meets any of the following  
27 conditions:

28 (1) Is a victim of human trafficking, as defined in Section 236.1  
29 of the Penal Code.

30 (2) Is involved in prostitution, pornography, or stripping.

31 (3) Is engaged in survival sex, which is the exchange of sex for  
32 money or other consideration, including food or shelter, in order  
33 to ensure his or her survival.

34 2202. (a) The interagency workgroup shall be comprised of  
35 the State Department of Health Care Services, the Children and  
36 Family Services Division of the State Department of Social  
37 Services, the Division of Juvenile Justice in the Department of  
38 Corrections and Rehabilitation, and the State Department of  
39 Education, and shall include a broad spectrum of stakeholders who  
40 are responsible for addressing the needs of this population,

1 including, but not limited to, local government agencies, human  
2 trafficking service providers, the California Mental Health  
3 Directors Association, county probation officers, the County  
4 Welfare Directors Association, youth advocates, court  
5 representatives, and human trafficking survivors.

6 (b) The workgroup shall conduct a thorough review of existing  
7 programs and services for child trafficking victims to identify areas  
8 of need. The workgroup shall develop strategies and  
9 recommendations for policies, interagency response protocols, and  
10 services that will ensure that child trafficking victims have access  
11 to the services and supports needed for their safety and recovery.

12 (c) The workgroup shall develop a comprehensive state plan to  
13 serve and protect sexually exploited and trafficked minors,  
14 including recommendations and a timeline for implementation.  
15 The plan shall include, at a minimum, all of the following:

16 (1) An evaluation of juvenile court jurisdiction pertaining to  
17 child trafficking, including the adequacy of existing jurisdictional  
18 statuses under Sections 241.1, 300, 601, and 602, and  
19 recommendations for necessary changes.

20 (2) A multiagency-coordinated child trafficking response  
21 protocol and guidelines for local implementation that addresses  
22 identification, screening, assessment, immediate and safe shelter,  
23 and clear lines of ongoing responsibility to ensure that child  
24 trafficking victims have access to the necessary continuum of  
25 treatment options, as determined by the workgroup.

26 (3) If new specialized services and programs are needed to  
27 ensure that child trafficking victims have access to safe and  
28 appropriate services, the identification of funding sources and a  
29 timeline for the creation of those services and programs.

30 (4) The identification of training needs for child welfare staff,  
31 law enforcement, and probation staff on child trafficking response  
32 protocols, and a plan and timeline to implement necessary training.

33 (5) The development of data collection and sharing protocols  
34 among agencies.

35 (d) In developing the plan, the workgroup shall consider the  
36 following:

37 (1) Existing laws and practices in other states and jurisdictions  
38 that have developed response protocols and policies to respond to  
39 sexual exploitation of minors and child trafficking, and the

1 outcomes and unintended consequences of those protocols and  
2 policies.

3 (2) The adequacy of existing response protocols and services,  
4 including identification, screening, assessment, immediate and  
5 safe shelter, and the range of treatment options for child trafficking  
6 victims.

7 (e) The workgroup, in collaboration with the Child Welfare  
8 Council, shall submit the plan, including implementation  
9 recommendations and a timeline, to the Legislature, Judicial  
10 Council, and the Governor, no later than January 30, 2015.

11 ~~SEC. 5.~~

12 *SEC. 6.* Section 16003 of the Welfare and Institutions Code is  
13 amended to read:

14 16003. (a) In order to promote the successful implementation  
15 of the statutory preference for foster care placement with a relative  
16 caretaker as set forth in Section 7950 of the Family Code, each  
17 community college district with a foster care education program  
18 shall make available orientation and training to the relative or  
19 nonrelative extended family member caregiver into whose care  
20 the county has placed a foster child pursuant to Section 1529.2 of  
21 the Health and Safety Code, including, but not limited to, courses  
22 that cover the following:

23 (1) The role, rights, and responsibilities of a relative or  
24 nonrelative extended family member caregiver caring for a child  
25 in foster care, including the right of a foster child to have fair and  
26 equal access to all available services, placement, care, treatment,  
27 and benefits, and to not be subjected to discrimination or  
28 harassment on the basis of actual or perceived race, ethnic group  
29 identification, ancestry, national origin, color, religion, sex, sexual  
30 orientation, gender identity, mental or physical disability, or HIV  
31 status.

32 (2) An overview of the child protective system.

33 (3) The effects of child abuse and neglect on child development.

34 (4) Positive discipline and the importance of self-esteem.

35 (5) Health issues in foster care.

36 (6) Accessing education and health services that are available  
37 to foster children.

38 (7) Relationship and safety issues regarding contact with one  
39 or both of the birth parents.

1 (8) Permanency options for relative or nonrelative extended  
2 family member caregivers, including legal guardianship, the  
3 Kinship Guardianship Assistance Payment Program, and kin  
4 adoption.

5 (9) Information on resources available for those who meet  
6 eligibility criteria, including out-of-home care payments, the  
7 Medi-Cal program, in-home supportive services, and other similar  
8 resources.

9 (10) Instruction on cultural competency and sensitivity relating  
10 to, and best practices for, providing adequate care to lesbian, gay,  
11 bisexual, and transgender youth in out-of-home care.

12 (11) Instruction on cultural competency and sensitivity relating  
13 to, and best practices for, providing adequate care to a sexually  
14 exploited and trafficked minor in out-of-home care.

15 (12) Basic instruction on the existing laws and procedures  
16 regarding the safety of foster youth at school and the ensuring of  
17 a harassment and violence free school environment contained in  
18 the California Student Safety and Violence Prevention Act of 2000  
19 (Article 3.6 (commencing with Section 32228) of Chapter 2 of  
20 Part 19 of Division 1 of Title 1 of the Education Code).

21 (b) In addition to training made available pursuant to subdivision  
22 (a), each community college district with a foster care education  
23 program shall make training available to a relative or nonrelative  
24 extended family member caregiver that includes, but need not be  
25 limited to, courses that cover all of the following:

26 (1) Age-appropriate child development.

27 (2) Health issues in foster care.

28 (3) Positive discipline and the importance of self-esteem.

29 (4) Emancipation and independent living.

30 (5) Accessing education and health services available to foster  
31 children.

32 (6) Relationship and safety issues regarding contact with one  
33 or both of the birth parents.

34 (7) Permanency options for relative or nonrelative extended  
35 family member caregivers, including legal guardianship, the  
36 Kinship Guardianship Assistance Payment Program, and kin  
37 adoption.

38 (8) Basic instruction on the existing laws and procedures  
39 regarding the safety of foster youth at school and the ensuring of  
40 a harassment and violence free school environment contained in

1 the California Student Safety and Violence Prevention Act of 2000  
2 (Article 3.6 (commencing with Section 32228) of Chapter 2 of  
3 Part 19 of Division 1 of Title 1 of the Education Code).

4 (c) In addition to the requirements of subdivisions (a) and (b),  
5 each community college district with a foster care education  
6 program, in providing the orientation program, shall develop  
7 appropriate program parameters in collaboration with the counties.

8 (d) Each community college district with a foster care education  
9 program shall make every attempt to make the training and  
10 orientation programs for relative or nonrelative extended family  
11 member caregivers highly accessible in the communities in which  
12 they reside.

13 (e) When a child is placed with a relative or nonrelative extended  
14 family member caregiver, the county shall inform the caregiver  
15 of the availability of training and orientation programs and it is  
16 the intent of the Legislature that the county shall forward the names  
17 and addresses of relative or nonrelative extended family member  
18 caregivers to the appropriate community colleges providing the  
19 training and orientation programs.

20 (f) This section shall not be construed to preclude counties from  
21 developing or expanding existing training and orientation programs  
22 for foster care providers to include relative or nonrelative extended  
23 family member caregivers.

24 ~~SEC. 6.~~

25 *SEC. 7.* Section 16540 of the Welfare and Institutions Code is  
26 amended to read:

27 16540. The California Child Welfare Council is hereby  
28 established, which shall serve as an advisory body responsible for  
29 improving the collaboration and processes of the multiple agencies  
30 and the courts that serve the children and youth in the child welfare  
31 and foster care systems. The council shall monitor and report the  
32 extent to which child welfare and foster care programs and the  
33 courts are responsive to the needs of children in their joint care.  
34 The council shall issue advisory reports whenever it deems  
35 appropriate, but in any event, no less frequently than annually, to  
36 the Governor, the Legislature, the Judicial Council, and the public.  
37 A report of the Child Welfare Council shall, at a minimum, include  
38 recommendations for all of the following:

39 (a) Ensuring that all state child welfare, foster care, and judicial  
40 funding and services for children, youth, and families is, to the

1 greatest extent possible, coordinated to eliminate fragmentation  
2 and duplication of services provided to children or families who  
3 would benefit from integrated multiagency services.

4 (b) Increasing the quality, appropriateness, and effectiveness  
5 of program services and judicial processes delivered to children,  
6 youth, and families who would benefit from integrated multiagency  
7 services to achieve better outcomes for these children, youth, and  
8 families.

9 (c) Promoting consistent program and judicial excellence across  
10 counties to the greatest extent possible while recognizing the  
11 demographic, geographic, and financial differences among the  
12 counties.

13 (d) Increasing collaboration and coordination between county  
14 agencies, state agencies, federal agencies, and the courts.

15 (e) Ensuring that all state Title IV-E plans, program  
16 improvement plans, and court improvement plans demonstrate  
17 effective collaboration between public agencies and the courts.

18 (f) Assisting the Secretary of California Health and Human  
19 Services and the chief justice in formulating policies for the  
20 effective administration of the child welfare and foster care  
21 programs and judicial processes.

22 (g) Modifying program practices and court processes, rate  
23 structures, and other system changes needed to promote and support  
24 relative caregivers, family foster parents, therapeutic placements,  
25 and other placements for children who cannot remain in the family  
26 home.

27 (h) Developing data- and information-sharing agreements and  
28 protocols for the exchange of aggregate data across program and  
29 court systems that are providing services to children and families  
30 in the child welfare system. These data-sharing agreements shall  
31 allow child welfare agencies and the courts to access data  
32 concerning the health, mental health, special education, and  
33 educational status and progress of children served by county child  
34 welfare systems subject to state and federal confidentiality laws  
35 and regulations. They shall be developed in tandem with the  
36 establishment of judicial case management systems as well as  
37 additional or enhanced performance measures described in  
38 subdivision (b) of Section 16544.

39 (i) Developing systematic methods for obtaining policy  
40 recommendations from foster youth about the effectiveness and



1 quality of program services and judicial processes, and ensuring  
2 that the interests of foster youth are adequately addressed in all  
3 policy development.

4 (j) Implementing legislative enactments in the child welfare and  
5 foster care programs and the courts, and reporting to the Legislature  
6 on the timeliness and consistency of the implementation.

7 (k) Monitoring the adequacy of resources necessary for the  
8 implementation of existing programs and court processes, and the  
9 prioritization of program and judicial responsibilities.

10 (l) Strengthening and increasing the independence and authority  
11 of the foster care ombudsperson.

12 (m) Coordinating available services for former foster youth and  
13 improving outreach efforts to those youth and their families.

14 (n) Providing recommendations and updates to the State Plan  
15 to Serve and Protect Sexually Exploited and Trafficked Minors,  
16 as described in Chapter 4 (commencing with Section 2200) of  
17 Division 2.5.

18 ~~SEC. 7.~~

19 *SEC. 8.* If the Commission on State Mandates determines that  
20 this act contains costs mandated by the state, reimbursement to  
21 local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.